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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,977	07/05/2005	Owen Keith Hutchison	653.0021USU	4238

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STAMFORD, CT 06901

EXAMINER
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BONCK, RODNEY H

ART UNIT	PAPER NUMBER
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3681

MAIL DATE	DELIVERY MODE
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07/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/522,977

Applicant(s)

HUTCHISON, OWEN KEITH

Examiner

Rodney H. Bonck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-100 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-100 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3 docs (see p.2)</u>  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

The following is a first action on the merits of application Serial No.10/522,977, filed July 5, 2005, which is the national stage of PCT application No. PCT/AU03/00970, filed August 1, 2003.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

Receipt is acknowledged of the Information Disclosure Statements filed February 1, 2005, July 5, 2005, and August 7, 2006. The cited documents have been considered.

### ***Claim Objections***

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Claims 78 and 79 were omitted. Thus misnumbered claims 80-102 been renumbered as claims 78-100, in accordance with 37 CFR 1.126.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 53-56, 90, 95, 99 and 100 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 53, "the brake function" and "the clutch function" lack a proper antecedent basis. Claim 90 (originally claim 92) recites "the first function" and "the second function" without proper antecedent basis. In claim 95 (originally claim 97), "the first function" lacks an antecedent basis. The intended scope of claims 99 (originally claim 101) cannot be determined because the claim depends from itself.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-16, 29-38, 57-61, 65-86, 88, 89, 91-94, and 96-98 are rejected under 35 U.S.C. 102(b) as being anticipated by Lampert et al.(WO 00/50295 A1). The Lampert et al. device discloses a dual function handlebar mounted actuator 10 including means 16 for operating a first function and means 20 for operating a second function. Both means are arranged for activation by movement of a hand operated lever arrangement. The first and second function operating means are linked so that a combined first and second function can be activated. The dual function handlebar mounted actuator includes lever means 16 and 20. Activation of the lever means in a first direction activates a first function operating means and further activation of the lever means in the first direction to an activation point activates the second function operating means. The dual function handlebar mounted actuator of Lampert et al. comprises a device having a first function and a second function, wherein the first function is a clutch function and the second function is a brake function. The actuator includes lever means, and movement of the lever means in a first direction operates the first function. Upon reaching an initiation point the second function is initiated. The actuator further includes means for operating the second function independently of the first function. The lever means 16, 20 can be considered primary and secondary levers, as claimed, and include a pull member 58, 70, an arm member 56, 68, and first and second function operating means 16, 74.

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Claims 53-56, 79-86, and 92 are rejected under 35 U.S.C. 102(e) as being anticipated by Dal Pra('567). Dal Pra discloses a dual function handlebar mounted actuator 10 including hand operated lever means 16, 38 arranged for movement in a first direction serving to operate a first function. The lever means is further arranged for movement in a second direction serving to operate a second function. A combined function is achieved when the lever means are moved in the first or second direction. The dual function handlebar mounted actuator of Del Pra can be considered a main lever movable in first and second directions to result in first and second functions.

Claims 62-64, 90 and 95 are rejected under 35 U.S.C. 102(e) as being anticipated by Jakovljevic(US 2002/0185349 A1). Jakovljevic discloses an actuator arrangement including a lever 30 movable between first and second positions and a master cylinder 54 and piston 52. When the lever is moved towards the second position pressure in the master cylinder is increased, and when the lever is released the piston returns the lever to its first position.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-28, 87, 99 and 100 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lampert et al.(WO 00/50295 A1) in view of Hayashi('954). The Lampert et al. device discloses a dual function handlebar mounted actuator 10 including means 16 for operating a first function and means 20 for operating a second function. Both means are arranged for activation by movement of a hand operated lever arrangement. The first and second function operating means are linked so that a combined first and second function can be activated. The dual function handlebar mounted actuator includes lever means 16 and 20. Activation of the lever means in a first direction activates a first function operating means and further activation of the lever means in the first direction to an activation point activates the second function operating means. The dual function handlebar mounted actuator of Lampert et al. comprises a device having a first function and a second function. The Lampert et al. device lacks the claimed master cylinder and bias valve called for here. Hayashi discloses a handlebar mounted actuator for operating a first function, Bf, and/or a second function Br. Hayashi uses a master cylinder Mf and the valve V. It would have been obvious to use the hydraulic arrangement of Hayashi in the dual function actuator of Lampert et al., the motivation being to eliminate the problem of stretching or breaking actuation cables.

Claims 39-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lampert et al.(WO 00/50295 A1) in view of Drabin et al.('282). The Lampert et al. device discloses a dual function handlebar mounted actuator 10 including means 16 for operating a first function and means 20 for operating a second function. Both means

are arranged for activation by movement of a hand operated lever arrangement. The first and second function operating means are linked so that a combined first and second function can be activated. The dual function handlebar mounted actuator includes lever means 16 and 20. Activation of the lever means in a first direction activates a first function operating means and further activation of the lever means in the first direction to an activation point activates the second function operating means. The dual function handlebar mounted actuator of Lampert et al. comprises a device having a first function and a second function. The Lampert et al. device lacks the speed-responsive feature called for here. Drabin et al. teach providing a speed sensor and to arrange lever means such that, below a predetermined speed, the clutch will be released to prevent engine stalling. It would have been obvious to carry this teaching to the Lampert et al. device to achieve this same advantage.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bent('573), Schweering('826), Wakabayashi et al.('089), Berisch('518) and Osborne('312) show other dual function actuators.

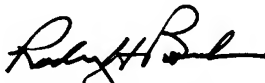
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney H. Bonck whose telephone number is (571) 272-7089. The examiner can normally be reached on Monday-Friday 7:00AM - 3:30PM.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Rodney H. Bonck  
Primary Examiner  
Art Unit 3681

rhb  
July 11, 2007